

12th March, 2025
(D/L No.12)
Ct. No.4
(SKB)

W.P.S.T.86 of 2024
With
CAN 1 of 2024

State of West Bengal and others
Versus
Ajoy Kumar Ghosh

Mr. Biswabrata Basu Mullick,
Ms. Amrita Panja Moulick
....for the petitioners.

Mr. G. P. Banerjee
Mr. Biswarup Nandy
... for the respondent.

1. The only issue which arises for consideration is whether the petitioner's claim for compassionate appointment could have been dealt with in light of a notification dated 3rd December, 2013 bearing No.251-Emp.
2. We find from the orders passed in OA No.273 of 2012 earlier filed by the petitioner that the claim for compassionate appointment was directed to be considered in view of Labour Department's order no.567(100-Emp/Emp/Im-141/97) dated 18th November, 1997. The consideration of the petitioner's claim, therefore, was required to be done under the Labour Department's order dated 18th November, 1997 in terms of the order passed by the State Administrative Tribunal in OA 273 of 2012 earlier filed by the present petitioner.

3. The order of the West Bengal Administrative Tribunal to this effect has attained finality and binding *inter partes*. Despite such finding, the present petitioner proceeded to consider the claim under the notification dated 03.12.2013 which was assailed by the petitioner by filing OA122 of 2021. The OA was allowed by an order dated 11.04.2022 in the following terms:-

“The question is whether in view of the judgment passed by the Tribunal dated 7th August, 2014 in OA-273 of 2012 in the case of the applicant, the Commissioner, the respondent no.2 was justified in passing the said order. Since, the Tribunal by the said judgment had directed the Commandant State Armed Police, 1st Battalion, West Bengal, the respondent no.4 to consider the application for job on compassionate ground in view of the Labour Department’s order no.567(100-Emp/Emp/Im-141/97) dated 18th November, 1997, the Commissioner erred in considering the case of the applicant in the light of the notification dated 251-Emp dated 3rd December, 2013. Therefore, the order dated 12th February, 2020, appearing at page 23 of the application, is set aside and quashed. The application is allowed. Accordingly, as the applicant has consented for being appointed as Group-D staff in the Department of Health and Family Welfare, Government of West Bengal, the Additional Chief Secretary, Home and Hill Affairs Department, the respondent no.1 is directed to issue appropriate order for appointment of the applicant on compassionate ground as Group-D staff under the establishment within eight weeks from the date of presentation of a copy of this order downloaded from the website of the Tribunal ignoring the age bar, if any, as the application for compassionate appointment has been pending since 2007.”

4. The order passed in OA No.273 of 2012, was an order binding *inter partes*, requiring consideration of the petitioner’s claim under the Labour Department’s order dated 18th November, 1997.

5. In view thereof, we find no infirmity in the order passed by the State Administrative Tribunal in the subsequent OA 122 of 2021. We are not inclined to interfere with the same.
6. The learned State counsel submits that the authorities be given some time for complying with the order in terms thereon. We consider it reasonable that the respondents be allowed six weeks' time from the date of receipt/production of a copy of this order to comply the order passed by the West Bengal Administrative Tribunal in OA No.122 of 2021.
7. The writ petition stands dismissed in the above terms.
8. Accordingly, the application being CAN 1 of 2024 is disposed of.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)